IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.889 OF 2006

IN

APPEAL FROM ORDER ST.NO.14543 OF 2006

Shri Mohammed Matioob .. Applicant

versus

Nawab Ahmed s/o Haji Mehmood .. Respondent

...

Ms.Sonia Miskin for the applicant.

Mr.M.H.A. Sayyed for respondent nos.1 and 2.

CORAM : D.G. KARNIK, J

DATED : 22nd September 2006

P.C.:

1. Heard learned counsel for the applicant.

2. This application is made for bringing the heirs of respondent no.3 on record. From the death certificate it is seen that respondent no.3 has died on 8th May 1997 i.e. long prior to the filing of the

appeal which has been filed in the year 2006. The appeal is thus filed against a dead person and the heirs of the person who has died prior to the filing of the appeal cannot be brought on record in appeal.

3. Learned counsel for respondent nos.1 and 2 states that respondent no.3 had died during the pendency of the suit and two application were made in the trial court for bringing the heirs of respondent no.3 on record on two occasions. Both the applications were rejected. Thus the suit has already been abated against the respondent no.3. Those orders rejecting the request of the applicant to bring the heirs of respondent no.3 on record in the suit have become final as they were not challenged in appeal.

4. In view of this, civil application cannot be allowed. Civil Application is accordingly dismissed.

(D.G. KARNIK, J)